

MINUTES
Independence Planning Commission/Board of Zoning Appeals
Tuesday, June 7, 2016
Veterans Room, Memorial Hall 5:30 p.m.

Call to Order

Planning Commissioners Present

Mary Jo Dancer*, Jim Hardy, Steve McBride, Mary Schmidt, Darnell Lawrie and Philip Umlauf

Planning Commissioners Absent

Nick McCollam*, John Faller and Tony Holmes

*Outside Appointments are not on the Board of Zoning Appeals

Staff Present

Kelly Passauer, Assistant City Manager/Zoning Administrator

Visitors Present

Robert Miller

Brett Littleton

Brock Sutherland

Brian Williams

Amanda Williams

a. Consider approving minutes of the May 3, 2016 meeting.

Steve McBride made a motion to approve the minutes from the May 3, 2016 meeting. Mary Jo Dancer seconded the motion to approve the minutes. Motion carried 6-0.

Board of Zoning Appeals

b. Consider a request for a variance to encroach on the setbacks in an R-3 zoned district at 319 S. 6th Street.

Robert Miller handed out a copy of his application, a drawing and some photos. He advised the Board of Zoning Appeals that he was wanting to build a larger garage that encroached on the setbacks.

Staff provided the following staff report to the board in written form prior to the meeting:

Overview of Variance Requested

The Board of Zoning Appeals has received an application from Robert Miller to grant a variance from the setback regulations as provided for in the zoning ordinance. His request is to encroach upon the side yard (fronting a street) and rear yard setbacks to replace an 18' X 20' garage with a new 42' X 30' garage. The applicant is requesting to encroach on the 25' required side yard setback (fronting a street) 20' and the 10' required rear yard setback 3'.

Review of Request

The applicant is planning to remove an 18' X 20' garage and replace it with a 42' X 30' garage and reduce the 25' side yard (fronting a street) setback to 5' and the 10' rear yard setback to 7'.

Board of Zoning Appeals Considerations

In considering the providing of a variance we wish to provide the following information:

a. That the variance requested arises from such condition which is unique to the property in question, and which is not ordinarily found in the same zone or district; and is not created by any action or actions of the property owner or the applicant; The existing garage encroaches 3' on the rear yard setback and the new garage would also encroach 3' on the rear yard setback. Because this is a corner lot the 25' front yard setback applies on both 6th Street and Walnut Street. The existing garage appears to be approximately 10' from the parcel line and currently encroaches approximately 15' on the side yard setback off Walnut, which is actually the south side of the proposed garage. The applicant is requesting a 20' encroachment with a reduced setback of 5'. There does appear to be a house to the west that encroaches 18' to 20' on the same 25' setback line.

b. That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents; It is not believed that this encroachment will create any adverse effects to adjacent property owners.

c. That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application; The hardship would consist of not allowing the property owner to enlarge their garage 3.5 times its current size.

d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; It does not appear that the variance will affect public health, safety or general welfare.

e. That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations. City staff feels it is not opposed to the general spirit and intent of the zoning regulations.

Staff Recommendation

Staff recommends approving the variances as follows; reduce the side yard setback on the south (Walnut Street) side 20'; from 25' to 5' as requested; and reduce the rear yard setback on the west 3', from 10' to 7'.

A motion was made by Steve McBride and seconded by Philip Umlauf to approve the variance as recommended by staff as follows; reduce the side yard setback on the south (Walnut Street) side 20'; from 25' to 5' as requested; and reduce the rear yard setback on the west 3', from 10' to 7'. The motion carried 5-0.

c. Consider a request for a variance to encroach on the setbacks in a C-2 zoned district at 1325 and 1329 North Pennsylvania.

Brent Littleton advised the Board of Zoning Appeals that he wished to locate a prebuilt shed on his parcel and requested a variance to the setbacks.

Staff provided the following staff report to the board in written form prior to the meeting:

Overview of Variance Requested

The Board of Zoning Appeals has received an application from Brent Littleton representing Grimes Family RE KS, LLC to grant a variance from the setback regulations as provided for in the zoning ordinance. His request is to encroach upon the 10' rear yard setback 7' to place a prebuilt small storage shed 3' from the rear property line.

Review of Request

The applicant is planning to place a small storage shed 3' from the rear property line for storage to serve his existing business.

Board of Zoning Appeals Considerations

In considering the providing of a variance we wish to provide the following information:

- a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by any action or actions of the property owner or the applicant;* The lots in this area are unusually shallow due to road right-of-way that was taken from the lot frontages several years ago. The Board of Zoning Appeals recently approved a similar setback for the Casey's expansion in this same commercial district.
- b. That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents;* It is not believed that this encroachment will create any adverse effects to adjacent property owners.
- c. That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;* The hardship would consist of not allowing the property owner to place their storage building in this location.
- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare* It does not appear that the variance will affect public health, safety or general welfare.
- e. That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.* City staff feels it is not opposed to the general spirit and intent of the zoning regulations.

Staff Recommendation

The Board of Zoning Appeals on December 16, 2014 approved reducing the front yard setback from 35' to 10' for this property in regards to a future building expansion which would allow them to match a new wall as part of a planned expansion with the existing wall. As of the date of this memo, the expansion project has not been started. However, in the event the applicant wishes to proceed staff recommends reaffirming the front yard setback reduction on the east from 35' to 10'; in addition to the new request to reduce the rear yard setback on the west 7', from 10' to 3'.

A motion was made by Jim Hardy and seconded by Darnell Lawrie to approve the follow variances as recommended by staff as follows; reaffirming the front yard setback reduction on

the east from 35' to 10'; in addition to the new request to reduce the rear yard setback on the west 7', from 10' to 3'. The motion carried 5-0.

d. Consider a request for a variance from the number of parking spaces required for medical clinics and offices in a C-4 zoned district at 510 and 584 North Peter Pan Road.

Brian Williams and Brock Sutherland advised the Board of Zoning Appeals they wished to reduce the number of required parking spaces for their medical facility planned to be constructed at 510 and 584 North Peter Pan Road.

Staff provided the following staff report to the board in written form prior to the meeting:

Overview of Variance Requested

The Board of Zoning Appeals has received an application from Brock Sutherland, Labette Health Regional Partnership, Inc. to grant a variance from the number of parking spaces required for medical clinics and offices in a C-4 zoned district at 510 and 584 North Peter Pan Road. The off street parking regulations require:

Medical clinics or offices	Seven spaces per staff physician plus 2 spaces for each 3 employees, or 1 space for every 120 square feet of gross floor area, whichever is greater.
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Based on information provided by the applicant:

- Seven spaces per staff physician plus 2 spaces for each 3 employees would result in 60 parking spaces;
- 1 space for every 120 square feet of gross floor area would result in 142 parking spaces based on a 17,000 square foot facility. Please note the code does not distinguish between occupied space and non-occupied space.

Since the code indicates utilizing whichever method is greater, 142 spaces are required.

The applicant requests to reduce the number of required parking spaces from 142 to 85.

Review of Request

The applicant is planning to construct a medical facility at 510 and 584 North Peter Pan Road. Rezoning to C-4 was previously approved along with a conditional use permit for this proposed project.

Board of Zoning Appeals Considerations

In considering the providing of a variance we wish to provide the following information:

- a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by any action or actions of the property owner or the applicant; The off street parking regulations require 142 spaces based on the gross floor area, which provides the greatest number of stalls when analyzing the two calculation methods provided by City code. The applicant is requesting to reduce this number to 85.*
- b. That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents; It is not believed that the number of parking spaces*

provided will create any adverse effects to adjacent property owners, as long as all drainage issues are properly addressed as the project is designed and developed.

c. *That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;* The hardship would consist of requiring the applicant to construct additional parking, thus increasing the project cost, that they do not perceive is needed.

d. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare* It does not appear that the variance will affect public health, safety or general welfare.

e. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.* City staff feels it is not opposed to the general spirit and intent of the zoning regulations.

Staff Recommendation

Staff recommends approving the variance as requested and reducing the required parking stalls from 142 to 85 as long as the scope and size of the facility proposed (approximately 17,000 square feet) stays consistent with what has been presented by the applicant.

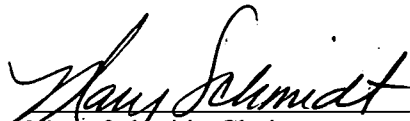
A motion was made by Philip Umlauf and seconded by Darnell Lawrie to approve the variance as recommended by staff as follows; reduce the required parking stalls from 142 to 85 as long as the scope and size of the facility proposed (approximately 17,000 square feet) stays consistent with what has been presented by the applicant. The motion carried 5-0.

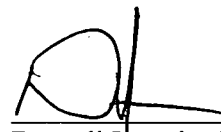
Planning Commission

e. None.

Adjournment

The meeting was adjourned with a motion by Mary Jo Dancer and a second by Philip Umlauf. The motion carried 6-0.


Mary Schmidt, Chair


Darnell Lawrie, Secretary

APPLICATION TO BOARD OF ZONING APPEALS

CITY OF INDEPENDENCE, KANSAS

1. Date: 4/28/2016

2. Name, Address and Telephone Number of Property Owner:

Robert J. Miller - 315 S. 6th - Independence, KS 620-331-3545

3. I appoint the following person as my agent during consideration of my request:

Name:

Address:

Telephone:

NA

4. Common Address of Land Involved:

319 S. 6th

5. Legal Description of Land Involved:

South 56 feet of Lot 5, Block 78, Original to the city of Independence.

6. Describe what you wish to do which the zoning code prohibits:

I want to tear down the existing 18 x 20 garage and build a 42 x 30 garage on the same site. I'd like a 7 foot setback (code is 10 feet) from the alley, which is where the existing garage is and I'd like a 5 foot setback (code is 25 feet) from the sidewalk on the Walnut Street side.

7. The following condition(s), which were not created by the owner's actions, are unique to the property in question and are not commonly found in the same zone or district:

NA

8. The proposed development would not adversely affect the rights of the adjacent property owners or residents because:

There are no adverse effects.

9. The literal enforcement of the zoning regulations will result in the following unnecessary hardships:

None.

10: The proposed development will not be contrary to the public health, safety, morals, or general welfare because:

NA

11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

NA

12: Please attach a site plan showing the dimensions of the lot, the location of building (both existing and proposed), and the location of existing buildings on adjacent property.

See attached.

If the space provided is not sufficient, the applicant may attach additional pages. The applicant also may submit any other pertinent information including photographs, drawings, maps, statistics, legal documents, and letters of support.

Signature of Property Owner:

Robert J. Miller

Case Number: _____

Date Filed: _____

Fee Received: _____

Present Zoning: _____

Miller, Robert (Independence, KS)

From: Kelly Passauer <kellyp@independenceks.gov>
Sent: Thursday, April 28, 2016 9:13 AM
To: Miller, Robert (Independence, KS)
Subject: R-3 Regulations and Forms

Robert,

If you need anything else please don't hesitate to contact me.

Thanks!

Kelly

R-3 Regulations:

[https://www2.municode.com/library/ks/independence/codes/code_of_ordinances?nodeId=APXBZO_ARTVDI
RE_504.0LODEMUDWDI](https://www2.municode.com/library/ks/independence/codes/code_of_ordinances?nodeId=APXBZO_ARTVDI_RE_504.0LODEMUDWDI)

Variance Form:

<http://www.independenceks.gov/DocumentCenter/View/509>

Small Building Form:

<http://www.independenceks.gov/DocumentCenter/Home/View/99>

Kelly C. Passauer, CPM
Assistant City Manager/Zoning Administrator



City Hall
120 North 6th Street
Independence, KS 67301
(620) 332-2506

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kellyp@independencesks.gov or call Kelly Passauer, Assistant City Manager, at 620-332-2506 advising you have done so. The City of Independence appreciates your cooperation.

- **504.0. - R-3, low density multifamily dwelling district.**

504.1. Intent: The intent of this district is to provide for areas [of] moderate density residential development that would provide a transition between low density single-family and high density multifamily areas. The principal use of land is for two-family and three-family dwellings and related recreational, religious and educational facilities normally required to provide a balanced residential area.

504.2. Permitted uses: The listing of permitted uses is set out in appendix "A" of these regulations.

504.3. Conditional uses: The listing of conditional uses is set out in appendix "A" of these regulations.

504.4. Intensity of use regulations:

a.

Minimum lot area:

Single-family—7,200 square feet.

Two-family—4,000 square feet per family.

Three-family—3,000 square feet per family.

b.

Minimum lot width: N/A.

c.

Maximum lot coverage: 35 percent.

504.5. Height regulations:

a.

Maximum structure height: 35 feet or 2½ stories (whichever is smaller).

504.6. Yard regulations:

a.

Minimum front yard:

1.

The front yard shall be a minimum of 25 feet in depth measured from the front lot line.

2.

Where lots have a double frontage, the required front yard shall be provided on both streets.

b.

Minimum side yards:

1.

Interior side yards: Eight feet.

2.

Where the side yard fronts on a street, the minimum front yard setback shall be provided.

c.

Minimum rear yard: Ten feet.

Exception: On lots of irregular rear property lines or when residence is located on the lot at an angle, rear yard dimensions shall be taken at each end of building parallel to the sides and a perpendicular measurement taken from the rear of building to the furthest point of the lot. The average of these

three measurements shall be equal [to] at least 25 feet. However, in no case shall the building or structure be located less than eight feet perpendicular from any property line.

504.7. Parking regulations:

a.

Off-street parking: Two spaces for each dwelling unit. (See article VII for additional parking requirements.)

Print Page

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The Parcel Number for this Property is 063-099-31-0-20-32-006.00-0

Quick Ref ID: 7176

Owner Information

Owner Name	MILLER, ROBERT J TRST 11/22/10, TRSTE
Address	315 S 6TH ST INDEPENDENCE, KS 67301

Property Situs Address

Address	319 S 6TH ST, Independence, KS 67301
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Land Based Classification System

Function	Single family residence (detached)
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	1
Zoning	
Neighborhood	101.C
Tax Unit Group	108

Property Factors

Topography	Level - 1
Utilities	All Public - 1
Access	Paved Road - 1 Alley - 7
Fronting	Residential Street - 4
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Adequate - 2
Parking Proximity	On Site - 3
Parking Covered	
Parking Uncovered	

2015 Appraised Value

Class	Land	Building	Total
Residential - R	4,470	86,440	90,910
Total	4,470	86,440	90,910

Tract Description

ORIG PLAT, S31, T32, R16, LT 5 EX N 4' BLK 78; Lot Width: 056.0 Lot Depth: 140.0

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
581	48						

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Sqft	Primary Site - 1	7840										4,470

Dwelling Information


Dwelling Information		Comp Sales Information	
Res Type	Single-family Residence	Arch Style	Old Style
Quality	AV-	Bsmt Type	Full - 4
Year Built	1899	Total Rooms	7
Eff Year		Bedrooms	4
MS Style	Two Story	Family Rooms	1
LBCSStruct	Detached SFR unit	Full Baths	1
No. of Units		Half Baths	1
Total Living Area		Garage Cap	
Calculated Area	2,311	Foundation	Stone - 4
Main Floor Living Area	1,270		
Upper Floor Living Area Pct.	82		
CDU	AV		
Phys/Func/Econ	AV/ /		
Ovr Pct Gd/RCN	/190,700		
Remodel			
Percent Complete			
Assessment Class			
MU Cls/Pct			

Dwelling Components				
Code	Units	Pct	Quality	Year
Enclosed Wood Deck (SF), Screened Walls	70			
Wood Deck (SF) with Roof	52			
Wood Deck (SF) with Roof	189			
Frame, Siding, Metal		100		
Composition Shingle		100		
Total Basement Area (SF)	1,186			
Raised Subfloor (% or SF)		100		
Radiators, Hot Water		100		
Plumbing Fixtures (#)	7			
Plumbing Rough-ins (#)	1			
Automatic Floor Cover Allowance				
Double 2-Story Fireplace (#)	1			

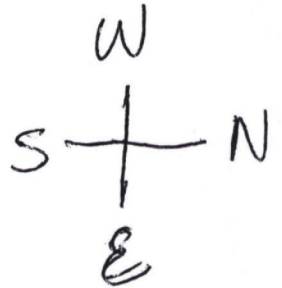
Building Improvements																			
Id	Occupancy	MSCls	Rank	Qty	Yr Bld	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cls	RCN
70	Residential Garage - Detached	D	1.00	1	1935			360	76	8	18 X 20	1	3	3					7,900
																			25
																			1,970

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Parcel Search powered by  THOMSON REUTERS

ALLEY



WALNUT ST

DRIVE-
WAY

GARAGE

SIDEWALK

HOUSE

319 S. 6TH

SIDEWALK

6TH ST.

319 South 6th

